



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,222	09/24/2003	Ben K. Rice	142280/BRW003	8228
23444	7590	07/14/2005	EXAMINER	
ANDREWS & KURTH, L.L.P. 600 TRAVIS, SUITE 4200 HOUSTON, TX 77002			FERGUSON, MICHAEL P	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,222

Applicant(s)

RICE, BEN K.

Examiner

Michael P. Ferguson

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 7-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 7-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 31, 2005.

Claim Objections

2. Claims 3, 5 and 6 are objected to because of the following informalities:

Claim 3 (line 2) recites "said plurality of horizontal support strips". It should recite --said horizontal support strips--.

Claim 5 (line 2) recites "said plurality of horizontal support strips". It should recite --said horizontal support strips--.

Claim 6 (line 2) recites "said plurality of horizontal support strips". It should recite --said horizontal support strips--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

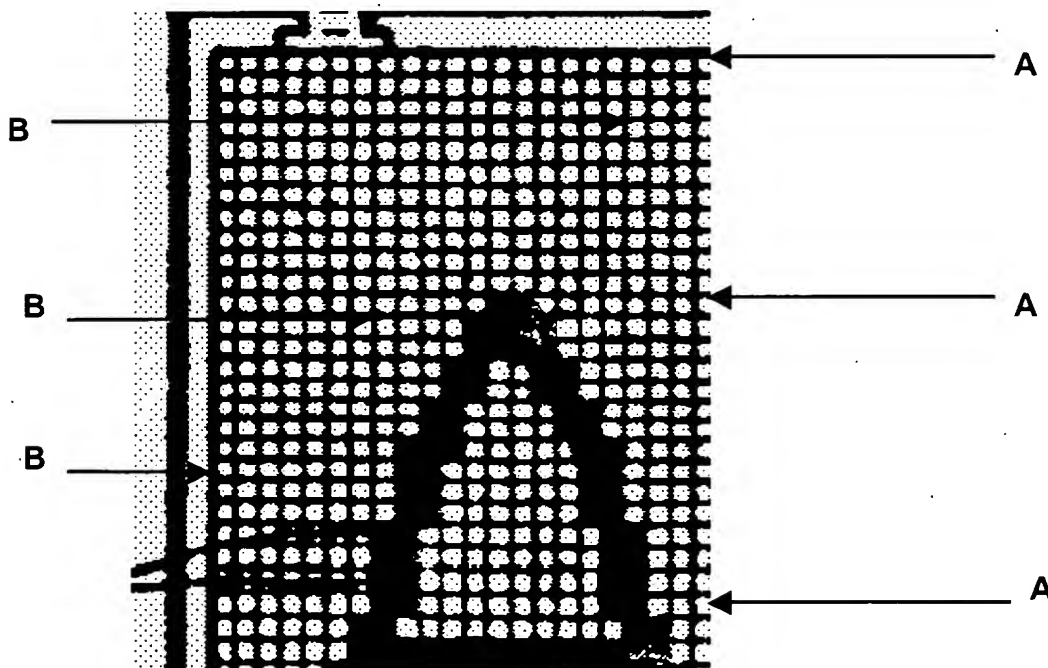
Art Unit: 3679

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hisatomi et al. (US 5,177,890).

As to claim 1, Hisatomi et al. disclose a barrier for securement to a floor comprising:

a barrier section including three horizontal support strips **A** (Figure 1 reprinted below with annotations) and a three vertical support strips **B**, each of the horizontal support strips being fastened to each of the vertical support strips to form a rectangular web structure, the barrier section having mesh fabric superimposed on the rectangular web structure, the barrier section having mesh fabric superimposed on the rectangular web structure and attached thereto (mesh fabric sections intermediate horizontal support strips **A** and vertical support strips **B** are integral with the strips and thus attached to the strips), and

two supports **12,14** having the barrier section coupled therebetween (Figures 1 and 2).



As to claim 2, Hisatomi et al. disclose a barrier wherein one of the two supports is a vertical standard **12** having a base (inherently) secured to the floor (Figure 1).

As to claim 3, Hisatomi et al. disclose a barrier comprising:

a plurality of cam buckles **20** fastened to the horizontal support strips **A** to form a plurality of loops around one of the two supports **14** (Figure 1).

As to claim 4, Hisatomi et al. disclose a barrier comprising:

an advertisement banner **28** coupled to the barrier section (Figure 1).

As to claim 5, Hisatomi et al. disclose a barrier wherein the horizontal support strips **A** are slightly elastic.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hisatomi et al. in view of Specht (US 5,661,944).

As to claim 6, Hisatomi et al. fail to disclose a barrier wherein the horizontal support strips are made of polyester.

Specht teaches a barrier wherein horizontal support strips are made of polyester; the polyester material providing for a durable, tensioned barrier (column 2 lines 46-58). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a barrier as disclosed by Hisatomi et al. to have

Art Unit: 3679

horizontal support strips made of polyester as taught by Specht in order to provide for a durable, tensioned barrier.

Response to Arguments

7. Applicant's arguments filed April 19, 2005 have been fully considered but they are not persuasive.

As to claim 1, Attorney argues that:

Hisatomi et al. do not disclose a barrier comprising a barrier section *having mesh fabric superimposed on the rectangular web structure and attached thereto*.

Examiner disagrees. As to claim 1, Hisatomi et al. do not disclose a barrier comprising a barrier section having mesh fabric superimposed on the rectangular web structure and attached thereto (mesh fabric sections intermediate horizontal support strips **A** and vertical support strips **B** are integral with the strips and thus attached to the strips; Figure 1).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3679

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MPF
06/28/05



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600